

Finlay, Flanagan, Hall, Henry, King, Rawson, Randle, Ruby, Sayers, Swift, Tendick, Tracy, Word and Mr. President—19.

Nays—Senators Dohoney, Evans, Fountain, Franks, Gaines and Saylor—6.

On motion of Senator Ruby, the Senate adjourned till 9 o'clock A. M. to-morrow.

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SENATE CHAMBER,  
AUSTIN, TEXAS, May 16, 1873. (

Senate met pursuant to adjournment. Roll called; quorum present.

On motion of Senator Gaines, the reading of the journal of yesterday was dispensed with.

Senator Fountain introduced a bill to be entitled "An act to grant the ferry franchise to the city of Brownsville." Read first time and referred to Judiciary Committee No. 1.

Also, a bill to be entitled "An act to amend an act prescribing the times of holding district courts in the several judicial districts of the State, approved August 10, 1870, approved April 17, 1871."

Senator Swift introduced a bill to be entitled "An act making additional appropriation to pay the *per diem* and mileage of witnesses in the case of the impeachment of Judge John G. Scott, and other expenses incident to said case."

The bill was read first time; rules suspended, read second time and ordered engrossed; rules further suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dohoney, Fountain, Franks, Gaines, Hall, Henry, Latimer, Rawson, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Word and Mr. President—19.

Nays—Senators Baker and Tracy—2.

On motion of Senator Cole, Senate bill No. 292, "An act to incorporate the Sherman, Tyler and Henderson Railway Company, and to grant lands to aid in the construction thereof," was taken up, and the Senate concurred in the House amendments.

Senator Shelley in the chair.



By leave, Senator Finlay introduced a bill to be entitled "An act to organize the county of Clay." Read first time and referred to Committee on State Affairs.

On motion of Senator Finlay, the rules were suspended to take up House bill No. 297, "An act to prevent horse racing in certain places."

The bill was read second time, and passed to a third reading; rules further suspended, the bill read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Cole, Dillard, Dohoney, Finlay, Flanagan, Gaines, Henry, Latimer, Rawson, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tracy and Word—19.

Nays—Senators Fountain and Franks—2.

Senator Tracy, chairman *pro tem.* of Committee on Enrolled Bills, submitted the following report:

*Hon. E. B. Pickett, President of the Senate:*

SIR: On behalf of your Committee on Enrolled Bills, I did, on yesterday at 4:30 o'clock P. M., present to his Excellency the Governor for his signature and approval, the following Senate bills, to-wit:

No. 258, "An act entitled an act to incorporate the Tyler Tap Railroad Company, approved December 1, 1871, and to grant land to said company to aid in the construction of its road."

No. 136, "An act to amend article seven hundred and sixty-six of the Penal Code."

No. 342, "An act to authorize and require the County Court of Robertson county to retire certain county scrip therein specified, and to issue the bonds of said county in lieu thereof."

No. 256, "An act to authorize the County Court of Lampasas county to levy a special tax."

No. 322, "An act to authorize G. W. Harper to construct and keep a toll bridge across South Sulphur Fork of Red River."

No. 274, "An act to validate and supplement the charter of the Bastrop Coal Company of Texas."

No. 97, "An act to incorporate the Hallville Masonic Institute, at Hallville, Harrison county, Texas."

No. 293, "An act for the relief of A. Howell."

No. 241, "An act to amend sections thirteen, fourteen, sixteen and seventeen of an act entitled an act to incorporate the town of Palestine, in Anderson county."

J. G. TRACY, Chairman *pro tem.*



Unfinished business, viz., House bill No. 50, "An act to regulate the practice of medicine," was then taken up. The bill was read third time.

Senator Ruby proposed to amend section third of the bill as follows: "*Provided*, that any duly educated physician or surgeon, with a diploma or certificate from any incorporated medical college, shall not be required to travel outside of his county or place of residence to have the examining board authorized in this act to pass upon his standing."

Senator Rawson moved to lay the amendment on the table. Carried.

Senator Franks proposed to amend as follows: "*Provided*, the provisions of this act shall not apply to nor be enforced in the county of Wharton."

Senator Flanagan moved to lay the amendment on the table. Carried by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Finlay, Flanagan, Fountain, Henry, Rawson, Sayers, Shelley, Swift, Tendick, Tracy and Word—16.

Nays—Senators Dohoney, Evans, Franks, Randle and Ruby—5.

The question then being the final passage of the bill, the same was put, and the bill passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Finlay, Flanagan, Fountain, Henry, Rawson, Randle, Ruby, Sayers, Shelley, Swift, Tendick, Tracy, Word and Mr. President—19.

Nays—Senators Dohoney, Evans, Franks and Latimer—4.

On motion of Senator Dohoney, the journal of yesterday was corrected so as to show that the report of the committee recommending amendments to House bill No. 35, "An act to authorize parties in certain cases to sue in the district courts for headright certificates and bounty and donation warrants, and to provide for the issuance of such certificates and warrants," was adopted by the Senate, and the secretary was instructed to so inform the House.

The special order for this time, viz., Senate bill No. 336, "An act to provide for the printing of the General Laws in the German and Spanish languages," was read second time and ordered engrossed.



Senator Fountain moved a suspension of the rules, and that the bill be read a third time. Lost by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Finlay, Flanagan, Fountain, Franks, Henry, Latimer, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Tracy and Mr. President—20.

Nays—Senators Dillard, Dohoney, Evans, Gaines, Rawson and Word—6.

The following resolution was then taken up.

*Resolved*, That the President of the Senate and Speaker of the House of Representatives are hereby authorized and required to adjourn their respective bodies *sine die*, on the twenty-fifth day of May, at 12 o'clock M.

Senator Cole moved to amend the resolution by striking out the "twenty-fifth day of May," and inserting the "twenty-sixth."

Senator Dohoney moved to postpone the consideration of the resolution until Saturday next at 10 o'clock A. M., which was lost by the following vote:

Yeas—Senators Ball, Dohoney, Evans, Finlay, Henry, King, Latimer, Shelley and Word—9.

Nays—Senators Avinger, Baker, Cole, Dillard, Flanagan, Fountain, Franks, Gaines, Hall, Rawson, Randle, Ruby, Saylor, Sayers, Swift, Tendick, Tracy and Word—18.

Senator Gaines moved to refer the resolution to the Committee on State Affairs, which was lost by the following vote:

Yeas—Senators Dillard, Dohoney, Evans, Finlay, Gaines, Henry, King, Latimer, Swift and Word—10.

Nays—Senators Baker, Ball, Cole, Flanagan, Fountain, Franks, Hall, Rawson, Randle, Ruby, Saylor, Sayers, Shelley, Tendick, Tracy and Mr. President—17.

Senator Dillard moved to postpone the consideration of the resolution until Wednesday, at 10 o'clock A. M.

Senator Baker moved the previous question. Carried.

The previous question, viz., the adoption of the motion offered by Senator Finlay to postpone, was then put, and the Senate refused to postpone by the following vote:

Yeas—Senators Dillard, Dohoney, Evans, Finlay, Gaines, Henry, King, Latimer, Shelley, Swift and Word—11.

Nays—Senators Avinger, Baker, Ball, Cole, Flanagan,



Fountain, Franks, Hall, Rawson, Randle, Ruby, Saylor, Sayers, Tendick and Tracy—15.

The question then being the adoption of the amendment offered by Senator Cole, viz., to strike out the "twenty-fifth day of May," and insert the "twenty-sixth," the same was put and adopted.

The resolution as amended was then adopted.

Senator Franks moved to reconsider the vote just taken on the adoption of the resolution, and to lay that motion on the table.

The hour having arrived for the consideration of the special order, viz., the School bill and veto message, Senator Dohoney moved to postpone the same until Monday next at 10 o'clock A. M.

Senator Fountain moved a call of the Senate. Call sustained.

Absent—Senators Ford, Hall and Pyle.

The sergeant at-arms was dispatched for the absent Senators.

Senator Shelley, chairman of the Committee on Finance, submitted the following report:

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Finance, to whom was referred House bill No. 441, entitled "An act making appropriations for the support of the State government for the fiscal year beginning September 1, 1872, and ending August 31, 1873, and for deficiencies for 1870, 1871 and 1872," have had the same under careful consideration; and being of opinion that, so far as practicable, all appropriations should be made specifically, and especially that appropriations for expenditures made by either department of the government, excessive of the appropriations therefor of previous years, should be made distinct and separate from the appropriations for the current year. And your committee further being of opinion that appropriations should be made for the support of the State government for two fiscal years instead of one, as is done by the House bill, so that there may not be an interval of time between the ending of a fiscal year and the assembling of the Legislature, in which the warrants of the Comptroller cannot be drawn on the treasury, because of the expiration of the time for which appropriations have been made. Your committee, therefore, instruct me to report the two accompanying bills, one en-



titled "An act making appropriations to supply the deficiencies in the appropriations for the years 1870, 1871 and 1872, for the support of the State government," and the other "An act making appropriations for the support of the State government for the fiscal year beginning September 1, 1872, and ending August 31, 1873, and for the fiscal year beginning September 1, 1873, and ending August 31, 1874," and recommend their passage.

N. G. SHELLEY, Chairman.

On motion of Senator Shelley, the rules were suspended and the report taken up.

On further motion of Senator Shelley, the bill was made special order for to-morrow at 4 o'clock P. M., and one hundred copies of the two substitutes reported by the committee ordered printed.

The following House bills were taken from the President's desk, read first time and referred to the committees indicated:

House bill No. 888, "An act to amend an act to provide for districting the State into judicial districts." Referred to Committee on Judiciary No. 2.

House bill No. 876, "An act to incorporate the Navasota Real Estate and Building Association." Referred to Committee on State Affairs.

House bill No. 856, "An act to incorporate the officers and members of Gaiety Lodge I. O. O. F. at Carthage, Texas." Referred to Committee on State Affairs.

House bill No. 877, "An act to authorize the County Court of Colorado county to levy a special tax for the erection of a county jail." Referred to Committee on State Affairs.

House bill No. 871, "An act to amend section two of an act amendatory of an act to incorporate the city of New Braunfels." Referred to Committee on State Affairs.

House bill No. 776, "An act to prevent the herding of stock on certain lands therein named."

House bill No. 570, "An act to create the county of Wegefath." Referred to Committee on Counties and County Boundaries.

House bill No. 407, "An act to incorporate the Central Texas Agricultural and Mechanical Fair Association." Referred to Committee on State Affairs.

House bill No. 860, "An act to incorporate Little River Academy, in Bell county." Referred to Committee on Education.



House bill No. 870, "An act to authorize J. T. Veal to remove obstructions in Little Cypress Bayou." Referred to Committee on Internal Improvements.

House bill No. 589, "An act to incorporate the Texas University." Referred to Committee on Education.

House bill No. 396, "An act granting principal and assistant teachers of Dangerfield High School, in Titus county, the privilege of granting diplomas to students." Referred to Committee on Education.

House bill No. 859, "An act to prohibit the sale of intoxicating liquors within three miles of Prairie Grove Church, in Hill county, and Evergreen, in Washington county." Referred to Committee on State Affairs.

House bill No. 561. "An act to incorporate a Savings Bank in Bonham, Texas." Referred to Committee on State Affairs.

House bill No. 852, "An act to prohibit the sale of intoxicating liquors within six miles of Little River Academy, in Bell county." Referred to Committee on State Affairs.

House bill No. 857, "An act to provide for holding an election in the county of Waller." Referred to Committee on State Affairs.

House bill No. 874, "An act to authorize the County Court of Colorado county to issue interest-bearing bonds for the purpose of funding outstanding indebtedness of said county." Referred to Committee on Finance.

House bill No. 820, "An act to regulate sales of property made under decrees of courts and executions." Referred to Committee on Judiciary No. 1.

House bill No. 631, "An act to authorize the County Court of Brazos county to levy and collect a special tax of one-fourth of one per cent. to complete the court house and make more secure the jail of said county." Referred to Committee on Counties and County Boundaries.

House bill No. 865, "An act to validate bounty land warrant No. ..., issued to the heirs of Thomas Jackson." Referred to Committee on Private Land Claims.

House bill No. 885, "An act for the relief of E. A. Merchant, his heirs or assigns." Referred to Committee on Private Land Claims.

House bill No. 288, "An act for the relief of the heirs or assigns of E. S. Williams, deceased." Referred to the Committee on Private Land Claims.



House bill No. 470, "An act to compensate Aaron S. Mangum for services rendered as a soldier in the army of the Republic of Texas." Referred to Committee on Private Land Claims.

House bill No. 482, "An act to aid in the construction of the railroad of the Galveston, Harrisburg and San Antonio Railway Company." Referred to Committee on Internal Improvements.

House bill No. 66, "An act to amend an act to incorporate the Dallas and Wichita Railroad Company, and to aid in the construction thereof." Referred to Committee on Internal Improvements.

House bill No. 875, "An act to incorporate the Texas Well and Irrigating Company." Referred to Committee on Internal Improvements.

House bill No. 867, "An act to levy a special tax in the county of Angelina for the purpose of building a court house and jail." Referred to Committee on Finance.

House bill No. 858, "An act to authorize the County Court of Gillespie county to contract a loan by issuing interest-bearing bonds for the purpose of building a court house and jail." Referred to Committee on Finance.

House bill No. 863, "An act to amend section three of an act supplementary to an act to provide for the payment of the public debt of the State of Texas." Referred to Committee on Finance.

House bill No. 866, "An act to prohibit the sale of intoxicating liquors within five miles of Bethel Church, in Lavaca county." Referred to Committee on State Affairs.

A message was received from the House informing the Senate that the House had passed the following bills:

House bill No. 700, "An act granting land to the Buffalo Bayou Ship Channel Company in aid of the improvement of the navigation from Bolivar channel, near the Gulf of Mexico, to the city of Houston."

House bill No. 878, "An act to prohibit the granting of license for the sale of intoxicating liquors within two and one-half miles of any college, academy, seminary or school not embraced in any incorporated town or county seat."

House bill No. 881, "An act for the relief of the heirs of Wigginson Loving, deceased."

House bill No. 882, "An act for the relief of the heirs and legal representatives of David Huffman, deceased."



House bill No. 892, "An act to incorporate the town of McKinney, Collin county."

House bill No. 547, "An act to incorporate Davilla Institute, in Milam county."

House bill No. 895, "An act to amend the first section of an act to establish and incorporate the College of De Kalb."

House bill No. 599, "An act to incorporate the Corpus Christi and Rio Grande Railway Company, and to aid in the construction of the same."

House bill No. 603, "An act to incorporate the town of Honey Grove, in Fannin county."

House bill No. 809, "An act to provide for the condemnation and sale of land for delinquent taxes."

Senate bill No. 301, "An act making an appropriation for the payment of the State police and employes."

House bill No. 638, "An act to incorporate the Fort Worth, Cleburne and Waco Railway Company, and granting lands in aid of the construction of said railway."

House bill No. 904, "An act to amend section eight of an act to incorporate the town of Seguin, in Guadalupe county."

House bill No. 503, "An act supplemental to an act entitled an act to incorporate the Pacific and Great Eastern Railway Company."

House bill No. 410, "An act to amend an act to incorporate the Magnolia Grove Association."

House bill No. 766, "An act to incorporate the Paris, Greenville and Cleburne Railway Company."

Senate bill No. 349, "An act making an appropriation to carry into effect an act authorizing quarantine on the coast of Texas and elsewhere within the State."

Senate bill No. 351, "An act making an appropriation to pay the *per diem* and mileage of witnesses in case of the impeachment of Judge John G. Scott, and other expenses incident to said case."

House bill No. 850, "An act prescribing the times of holding general elections in this State," was taken up, and, on motion of Senator Franks, made special order for Monday next at 10:30 o'clock A. M.

Senate bill No. 307, "An act to reorganize certain judicial districts, and to abolish certain other judicial districts therein named," was taken up and read third time.



Senator Flanagan moved to strike out the words, "the Sixth Judicial District," in section twenty. Adopted.

Senator Tracy moved to amend by adding Chambers county to El Paso county. Lost by the following vote:

Yeas—Senators Baker, Gaines, Hall, Rawson and Tracy—5.

Nays—Senators Avinger, Ball, Dillard, Dohoney, Evans, Finlay, Fountain, Henry, Latimer, Randle, Sayers, Shelley, Swift, Word and Mr. President—15.

Select committee on the veto message of the Governor on Senate bill No 42 submitted the following report:

*Hon. E. B. Pickett, President of the Senate:*

SIR: The undersigned, a majority of your select committee, to whom was referred "An act conferring the right of suffrage upon such foreign-born residents as may have heretofore declared, or may hereafter declare, their intention to become citizens, before the clerks of the district courts of the several counties in vacation," having carefully considered the same, and the message of the Governor enclosing his veto of the bill, ask leave to report it back, and recommend that it do pass, notwithstanding the Governor's objections.

GEO. P. FINLAY,

JNO. L. HENRY.

The bill and veto message were then taken up, and the Senate refused to pass the bill over the veto by the following vote:

Yeas—Senators Avinger, Cole, Dillard, Dohoney, Evans, Finlay, Henry King, Latimer, Sayers, Shelley, Word and Mr. President—13.

Nays—Senators Baker, Flanagan, Fountain, Gaines, Hall, Rawson, Buby, Saylor, Tendick and Tracy—10.

Senator King, chairman of the Committee on Engrossed Bills, submitted the following report:

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Engrossed Bills have examined and find correctly engrossed Senate bill No. 316, "An act authorizing the purchase of additional grounds for the use of the Asylum for the Blind, and making appropriation therefor."

HENRY C. KING, Chairman.

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Enrolled Bills, beg leave to



report that they have examined and compared Senate bill No. 254, "An act to incorporate the city of El Paso," and find the same correctly enrolled.

H. R. LATIMER, Chairman.

Senator Dillard, chairman of the Committee on Retrenchment and Reform, submitted the following report:  
*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Retrenchment and Reform, to whom was referred the consideration of Senate resolution providing for the payment of the phonographic reporter employed by the Senate to report their proceedings while sitting as a court of impeachment in the case of All the People of the State of Texas v. John G. Scott, Judge of the Tenth Judicial District, have had the same under consideration, and beg leave to report that they find, owing to the fact that no testimony was taken in said case, that but very slender service has been rendered by the reporter; but he having been detained six or seven days at the capitol, your committee would recommend that he be allowed five days' pay, at the rate of ten dollars *per diem*, and recommend the adoption of the accompanying resolutions.

J. E. DILLARD, Chairman.

1. *Resolved*, That the phonographic reporter employed by the Senate to report the proceedings in the impeachment case of the State of Texas v. John G. Scott, Judge of the Tenth Judicial District, receive as compensation for his services ten dollars *per diem* for five days' services, and that from and after this date his services be dispensed with.

2. *Resolved*, That the secretary of the Senate is hereby authorized and required to issue his certificate in favor of said reporter, which shall be countersigned by the President of the Senate, for the sum of \$50, and that the Comptroller is hereby authorized and required to audit said claim upon the presentation of said certificate, and the Treasurer required to pay the same out of the contingent fund of the Senate.

Senator Tracy moved to amend the resolution just reported by striking out "ten dollars" and inserting "twenty." Adopted by the following vote:

Yeas—Senators Baker, Flanagan, Fountain, Franks, Hall, Henry, Rawson, Randle, Ruby, Saylor, Shelley, Tendick, Tracy and Mr. President—14.



Nays—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Gaines, Latimer, Sayers, Swift and Word—11.

The resolution as amended was then adopted by the following vote:

Yeas—Senators Baker, Flanagan, Fountain, Franks, Hall, Henry, Rawson, Randle, Ruby, Saylor, Shelley, Tendick, Tracy and Mr. President—14.

Nays—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Gaines, King, Latimer, Sayers, Swift and Word—13.

On motion of Senator Fountain, Senator Ford was excused from attendance on the Senate for the morning session.

Senator Fountain moved to suspend the call of the Senate. Lost by the following vote:

Yeas—Senators Baker, Flanagan, Fountain, Gaines, Hall, Rawson, Randle, Ruby, Saylor, Tendick and Tracy—11.

Nays—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Henry, King, Latimer, Sayers, Shelley, Swift Word and Mr. President—15.

Senator Shelley, chairman of the Committee on Finance, submitted the following report:

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Finance, to whom was referred House bill No. 721, to be entitled "An act to regulate the assessment and collection of taxes," have carefully considered the same, and I am instructed to report as follows:

1. In the opinion of the committee the provisions of the House bill are too cumbersome and complicated, especially in respect to the method of obtaining proper revenue from railroad and telegraph companies.

2. Your committee believe that sections four and five of said bill, if the same shall be a part of the law, will occasion a diminution of the assessment of taxable values so large and held in such proprietorship as that your committee believe that the annual receipts of revenue would be largely diminished, and so largely as probably to cause the revenue reaching the Treasury fall short of meeting the current expenditures of the government.

Experience of past years, when the law required all property to be assessed and the taxes paid thereon in the



county in which the property is situated, has shown a great falling off of the taxable values as assessed, and the taxes paid thereon.

No inconsiderable portion of the land in the State, the title to which is held by individuals, is owned by persons non-resident of the State, and if having an agent within the State, they cannot render and pay the taxes on their lands in the county of the residence of the agent, their lands will not be assessed, and no revenue will be received therefrom; and the owners will take the chances of the condemnation and sale of their lands after five years have elapsed, upon the decree of a court. In the meantime they will avail themselves of every expedient for relief, by legislative action. Referring to the provisions of the Constitution, section twenty-eight, article twelve, your committee recommend a substitute for the fourth section of the House bill, authorizing the rendering or listing of lands in the county where the owner or agent resides, but requiring the assessment of the value in the county where situated.

The committee instruct me to report the bill back with the accompanying amendments, and to recommend the adoption of the amendments and passage of the bill as amended.

N. G. SHELLEY, Chairman.

Amend section two, line thirty-two, by striking out the word "judge" and inserting the word "court;" also, in line thirty-five strike out the word "judge" and insert the word "court."

Strike out section four and substitute the following:  
"SEC. 4. That all personal property shall be assessed and the tax thereon collected in the county where the owner or agent thereof resides, and all real estate may be rendered or listed, and the taxes paid thereon, in the county where the owner or agent thereof resides; *provided*, the same shall be assessed in the precinct where it is situated; and where lands shall be rendered situated in other counties than that in which the same is rendered, it shall be done to the presiding justice, whose duty it shall be forthwith to forward an abstract to the presiding justice of the county in which the land is situated, who shall immediately assess, or cause to be assessed by the justice of the proper precinct, the value of said land, and to return said assessment to the presiding justice from whom



he received the abstract, together with a statement of the county and special taxes levied in said county, and the presiding justice to whom said land was rendered, or listed, shall enter said assessment upon the tax rolls of his county, and the same shall be collected as other taxes in the county."

Amend section five by striking out the words "rendered and."

Amend section seven, in eighth line, after the word "others," by striking out the words "in this county."

Amend section nine by striking out all after the word "accordingly" in twenty-third line.

Strike out section ten entirely, and amend the numbers of all the sections up to twenty-one, so as to make them conform.

Amend section fifteen by inserting after the words "register of," the words "lands and also of." Also add to this section the following words: "All lands rendered for assessment shall be entered in the register kept for that purpose, which shall be so arranged as to show the assessment thereof for five years."

Strike out section twenty-one and insert the following substitute:

SEC. 21. *Clause 1.* That for the year 1873, and thereafter, the State, county and incorporation taxes on all railroads, and the property of all railroads situate upon the right of way of railroads, and adjoining and adjacent thereto, used for the purpose of operating and running such railroads in the State of Texas, shall be assessed and collected as hereinafter prescribed.

*Clause 2.* That it shall be the duty of the superintendents and treasurers of the several railroad companies in this State, at such time as may be fixed by the Comptroller of Public Accounts of this State, to render to the Comptroller an annual statement, in writing, under oath, showing the gross earnings of their respective roads per mile, inclusive of the entire length thereof within the State of Texas.

*Clause 3.* That upon the return of such statement, it shall be the duty of the Comptroller to assess the taxes due thereon at the rate of one per cent. on each hundred dollars of the gross earnings of each railroad, or part of any railroad, constructed in this State.

*Clause 4.* That upon the return of the statement re-



quired in the second section of this act, should the Comptroller not be satisfied with the same, or if any company fail to make such return, he shall select some suitable, disinterested person, a resident of the town or city in which the domicile of the company is situate, and the railroad company may select another such person, whose duty it shall be to inspect the books and papers of such company, after having been duly sworn to fairly and impartially inspect and report the gross earnings of the same, and after such inspection, to make due return to the Comptroller, without delay, the result of such inspection; and if said two persons, to be selected as aforesaid, shall fail to agree on the amount of such gross earnings by such company, they shall select a third person, also disinterested, and a report of a majority of the three shall be taken and accepted as the true amount. If such railroad company, after having notice that the return, by them to be made, is not satisfactory, and that a board of inspection will be appointed, fail, neglect or refuse to appoint the inspector herein provided for, or fail, neglect or refuse to permit the persons so appointed to have free access to the books and papers of the company for the purposes of such inspection, the Comptroller shall assess and cause to be collected the taxes on such company on the sum of ten thousand dollars per mile as the gross earnings thereof, with ten per centum damages thereon.

*Clause 5.* That the taxes hereinbefore provided for shall alone apply to the railroads and the property belonging to the same situated upon the right of way of the several lines or parts of lines of railroads in this State, inclusive of depot buildings, station houses, all kinds of cars and rolling stock, together with every description of property necessary to the running and successful operation of the same, and inclusive of machine shops, switches, round houses and turnouts, which may not be on the right of way, but contiguous thereto; *provided*, that lots of ground beyond the right of way, not including value of machine shops and other buildings necessary to the running of and operation of the road, together with all lots of ground, all hotels, hotel buildings, restaurants, and all other buildings or property used for the purpose of trade, or to accommodate the public, and not necessary to the running and operation of the railroad, whether situate on the right of way or not, shall have levied,



assessed and collected thereon all *ad valorem* and license taxes which are by general laws assessed on other like property and trades of this State.

*Clause 6.* That upon the assessment hereinbefore provided for being complete, the Comptroller shall fix the time, and notify the respective railroad companies, at which the same shall be paid, giving at least thirty days notice thereof; and in the event of a failure on the part of any company to pay the same at the Comptroller's office, or at such place as the Comptroller shall direct, then there shall be levied and collected, as a penalty on such tax, ten per cent. addition thereto, and shall forthwith direct the collector of taxes of the county where the domicile of such defaulting company's office is situate, to enforce the collection of said tax and penalties in the manner required by law for the enforcement of the collection of taxes from other delinquent tax payers of this State; and any of the property of such delinquent company may be levied on and sold to pay said tax.

*Clause 7.* That one-half of the taxes herein provided for shall be the State tax, and the other half shall be the taxes levied for the use of the counties, cities and incorporated towns, wherein the railroad or any part thereof may be situate; and that portion which is levied and collected for the counties, cities and towns shall be apportioned amongst all the counties through which the road may pass, or in which it may be situate, in proportion to the length of line in each county, and shall be paid over to the Treasurer of the State, subject to the order of the county or police court of each of said counties, and the county courts of each of said counties shall pay over to the treasurer of each incorporated town or city, situate on such railroad in their respective counties, such proportion of the amount received as they may be respectively entitled to, according to the value of the taxable property in each, and shall retain the proportion for the county that the taxable property outside of the towns and cities may entitle the county to retain.

*Clause 8.* That where special taxes are levied by the State, the Comptroller shall make a *pro rata* distribution of one-half of the taxes so assessed and collected, and pass the proper amount thereof to the credit of the special taxes so levied.

*Clause 9.* That where any special tax is levied by any



county, or by any portion of any county through which any railroad may pass, then the Comptroller, upon being notified of the amount of the special tax, shall levy and collect the same in the same manner as herein provided for the assessment and collection of the general tax; and when the tax is collected it shall be paid over by the Comptroller to the county treasurer; *provided*, the special tax shall not exceed one-half of one per cent. upon the share of the gross earnings of the road to which the county may be entitled.

*Clause 10.* That this section shall be held by the courts as the paramount law on the subject of taxation on the property of railroad companies.

Amend section twenty-eight by striking out all after the word "forthwith," in sixth line, and inserting the following: "To make complaint to the presiding justice of such failure, who shall notify the person complained of immediately to appear before him, and show cause why judgment should not be rendered against him; and it appearing to said justice that the party has failed to pay taxes, as provided in the preceding section, he shall enter up judgment against him for the amount thereof, with ten per cent. thereon, and shall issue execution therefor, commanding the sheriff to levy and sell, of the goods and chattels of the defendant, sufficient to make the amount of said judgment and costs, which levy and sale shall be made as under other executions."

Amend section twenty-nine by inserting after the word "taxes," in line eight, the words "when the same might have been done."

Amend section thirty-one by striking out all after the word "time," in the last two lines.

On motion of Senator Shelley, the rules were suspended and the report taken up.

On further motion of Senator Shelley, the bill was made special order for Monday next at 10 o'clock A. M., and one hundred copies of the bill and report and amendments ordered printed.

On motion of Senator Flanagan, the Senate adjourned till 4 o'clock P. M.

#### AFTERNOON SESSION.

Senate met at 4 o'clock P. M., pursuant to adjournment. Roll called; quorum present.



Senator Sayers, chairman of the Committee on Public Lands, submitted the following reports:

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Public Lands, to whom was referred House bill No. 824, "An act requiring the Commissioner of the General Land Office to furnish the surveyor's office of Hays county with a transcript of the records of said office," have considered the same, and recommend that it pass.

J. D. SAYERS, Chairman.

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Public Lands, to whom was referred House bill No. 188, entitled "An act for the benefit of the occupants of the public lands," having carefully considered the same, recommend its passage with the following amendments: After the word "who," in line two of section one, insert the words "has occupied or;" and also after the word "under" in line three, same section, insert the words "any previous or."

J. D. SAYERS, Chairman.

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Public Lands, to whom was referred House bill No. 686, "An act to authorize T. C. Jordan to purchase one hundred and sixty acres of land situate in the county of Hood, being a part of the land surveyed for the county of Milam for the purposes of education," have considered the same and recommend that it do pass.

J. D. SAYERS, Chairman.

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Public Lands, to whom was referred Senate joint resolution No. 31, setting aside certain lands for the building of a State capitol, have carefully considered the same, and recommend that it do not pass.

J. D. SAYERS, Chairman.

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Public Lands, to whom was referred House bill No. 209, "An act to regulate the issuing of land patents in certain cases," have carefully considered the same, and recommend that it do not pass.

J. D. SAYERS, Chairman.

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Public Lands, to whom was



referred Senate bill No. 239, "An act to provide for the location of unclaimed land certificates, and designate and fix the locative interest of locators in such cases," have had the same under consideration, and recommend that it do not pass.

J. D. SAYERS, Chairman.

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Public Lands, to whom was referred Senate bill No. 245, to be entitled "An act to authorize the sale of portions of the public domain," have carefully considered the same and recommend its passage.

J. D. SAYERS, Chairman.

A message was received from the House informing the Senate that the House had passed the following bills:

House bill No. 902, "An act to amend section one of an act entitled an act to amend the thirty-fourth and thirty-sixth sections of an act entitled an act prescribing the times of holding the district courts in the several judicial districts in the State, approved August 10, 1870, approved February 6, 1871."

House bill No. 906, "An act to incorporate the Brazos Santiago and Rio Grande Canal Company."

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

*Hon. E. B. Pickett, President of the Senate:*

SIR: Your Committee on Enrolled Bills beg leave to report that they have examined and compared Senate bill No. 351, "An act making additional appropriation to pay the *per diem* and mileage of witnesses in the case of the impeachment of Judge John G. Scott, and other expenses incident to said case, and find the same correctly enrolled.

H. R. LATIMER, Chairman.

Senate bill No. 117, "An act requiring the sheriffs to make deeds of conveyance of lands sold for taxes," together with the report of the Committee on Finance, recommending that the bill do not pass, was taken up, and the report adopted.

Senate bill No. 199, "An act to amend section two of an act concerning divorce and alimony," together with the report of the committee recommending amendments, was taken up, the bill read second time and the report adopted.

Senator Finlay offered the following amendment:



Amend section two by adding after the words "*bona fide* residents of the State" as follows: "And shall have resided in the county where the suit is filed six months next preceding the filing of the suit." The amendment was adopted.

The bill, as amended, was then ordered engrossed; rules suspended, read third time and passed.

A message was received from the House informing the Senate that the House had concurred in the amendments of the Senate to House bill No. 35, "An act to authorize parties in certain cases to sue in the district court for headright certificates and bounty and donation warrants, and to provide for the issuance of such certificates and warrants."

Also, in amendments of Senate to House bill No. 853, "An act supplementary to and amendatory of an act entitled an act to reincorporate the city of Corpus Christi."

Senator Franks moved to reconsider the vote taken on the adoption of the resolution to adjourn on the twenty-sixth day of May, and to lay that motion on the table.

Lost by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Evans, Flanagan, Fountain, Franks, Randle, Ruby, and Saylor—11.

Nays—Senators Dillard, Dohoney, Finlay, Gaines, Henry, King, Latimer, Sayers, Shelley, Swift, Tracy, Word and Mr. President—13.

And the Senate then refused to reconsider the vote by the following vote:

Yeas—Senators Ball, Dillard, Finlay, Gaines, Henry, King, Shelley, Swift, Word and Mr. President—10.

Nays—Senators Avinger, Baker, Cole, Dohoney, Evans, Flanagan, Fountain, Franks, Latimer, Randle, Ruby, Saylor, Sayers and Tracy—14.

Senator Dohoney called up Senate bill No. 100, "An act to provide for the merger of the Waco and North-western Railroad Company, with its properties, rights, privileges and franchises, in the Houston and Texas Central Railway Company," with amendments by the House.

Senator Saylor moved that the Senate do not concur in the House amendments. Carried.

Senator Dohoney then moved the appointment of a conference committee to consider the disagreement between the two houses. Carried.



The President announced the following committee, viz.:  
Senators Dohoney, Flanagan and Ball.

Senator Dohoney in the chair.

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

*Hon. E. B. Pickett, President of the Senate:*

SIR: On behalf of your Committee on Enrolled Bills I beg leave to report that to-day at 11:35 o'clock A. M. I presented to his Excellency the Governor Senate bill No. 254, "An act to incorporate the city of El Paso."

Also, at 4:45 o'clock P. M., Senate bill No. 351, "An act making additional appropriation to pay the *per diem* and mileage of witnesses in the case of the impeachment of Judge John G. Scott, and other expenses incident to said case."

H. R. LATIMER, Chairman.

On motion of Senator Finlay, House bill No. 155, "An act for the protection of the farming interest of the State," was taken up.

The bill was read second time.

Senator Baker proposed to amend by inserting Caldwell county. Adopted.

Senator Randle proposed to amend by inserting the counties of Grimes, Walker, Madison and San Jacinto Adopted.

Senator Avinger proposed to amend by exempting Titus county. Adopted.

Senator Dillard proposed to amend by inserting the counties of Cherokee and Houston in section nine. Adopted.

Senator Ruby proposed to amend by exempting the counties of Brazoria and Matagorda. Adopted.

Senator Tracy proposed to amend by adding Harris and Montgomery counties. Adopted.

Senator Swift proposed to amend by exempting the counties of Angelina and Trinity. Adopted.

Senator Gaines proposed to amend by exempting the county of Washington. Adopted.

Senator Ball proposed to amend by exempting the counties of Parker, Palo Pinto, Johnson, Erath and Hood. Adopted.

The bill as amended was then read third time and passed.

On motion of Senator Franks. the further consideration



of the bill was postponed until to-morrow at 4:30 o'clock P. M., and made special order for that hour.

House bill No. 113, "An act concerning landlords and tenants," was taken up, read second time, and substitute recommended by committee adopted.

Senator Gaines offered the following amendment:

Amend section one, by adding the following: "*Provided*, that any person or persons who shall rent or lease land to any person or persons in this State, and either fail or refuse to furnish the supplies, as provided for in the written contract or lease made and entered into between said tenant and landlord or person owning said land, shall be responsible to said tenant for all damages that he may sustain by such failure or refusal on the part of the landlord or owner of said land, and said tenant shall have a lien on the crops so rented for the damages adjudged against said landlord or land owner."

Senator Finlay moved to lay the amendment on the table. Carried by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Evans, Finlay, King, Sayers, Shelley, Swift and Word—11.

Nays—Senators Baker, Dohoney, Flanagan, Fountain, Gaines, Henry, Randle, Ruby and Tracy—9.

Senator Gaines moved to lay the bill on the table. Lost by the following vote:

Yeas—Senators Baker, Flanagan, Fountain, Franks, Gaines, Randle, Ruby, Saylor and Tracy—9.

Nays—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, King, Sayers, Shelley, Swift and Word—13.

Senator Tracy proposed to amend by adding the following: "*Provided*, that if, after complying with all the requirements of this act, the unfortunate tenant has anything left, it shall be immediately turned over to the landlord without further trouble or litigation."

Senator Swift moved to lay the amendment on the table. Carried by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Henry, King, Sayers, Shelley, Swift and Word—13.

Nays—Senators Baker, Flanagan, Fountain, Gaines, Randle, Ruby and Tracy—7.

Senator Henry moved to reconsider the vote adopting the substitute.



Senator Finlay moved to refer the whole matter to Judiciary Committee No. 1. Carried.

On motion of Senator Fountain the Secretary of the Senate was granted leave of absence for to-morrow.

On motion of Senator Ruby, the Senate adjourned to 9 o'clock A. M. to-morrow.

SENATE CHAMBER,  
AUSTIN, TEXAS, May 17, 1873.

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Avinger, the reading of the journal of yesterday was dispensed with.

Senator Word introduced a bill to be entitled "An act prescribing the times of holding the district courts in Kaufman and Rockwall counties, in the Tenth Judicial District."

The bill was read first time; rules suspended, read second time and ordered engrossed; rules further suspended, read third time and passed.

Senator Shelley offered the following resolution, which was adopted:

*Resolved*, That on Monday next, and from day to day thereafter, the Senate will hold a session at 7:30 P. M. of each session day, at which session bills of local and private nature shall alone be considered.

Senator Shelley moved that all bills incorporating institutions of learning lie on the table, without being referred to committees. Carried.

The following bills were taken from the President's desk, read first time, and referred to the committees indicated:

House bill No. 906, "An act to incorporate the Brazos Santiago and Rio Grande Canal Company." Referred to Committee on Internal Improvements.

House bill No. 902, "An act to amend section one of an act entitled an act to amend the thirty-fourth and thirty-sixth sections of an act entitled an act prescribing the times of holding the district courts in the several judicial districts in the State, approved August 10, 1870, approved February 6, 1871." Referred to Judiciary Committee No. 2.